Agricultural and Veterinary Chemicals (Administration) Bill 1992

Date Introduced: 3 November 1992
House: House of Representatives
Portfolio: Primary Industries and Energy

Purpose
To establish the National Registration Authority for Agricultural and Veterinary Chemicals (NRA).

Background
Prior to the introduction of the Agricultural and Veterinary Chemicals Act 1988 (the Act) there was no specific Commonwealth legislation for the clearance and registration of new agricultural and veterinary chemicals. The then non-statutory scheme provided for clearance and registration to be carried out by Commonwealth and State technical committees. This scheme was considered unsatisfactory as it did not eliminate duplication of laws and procedures between the Commonwealth and States (e.g. chemicals were frequently re-assessed at State level).

Deficiencies in the pre-1988 system led to the passage of the Act which established the Australian Agricultural and Veterinary Chemicals Council (the Council). The functions of the Council include to grant or withdraw clearances for the registration of chemical products for use in States for certain purposes under specified conditions; determine or vary the conditions to which such clearances are subject or to vary such conditions; and evaluate the effects of the use of chemical products. The Council is also the national body responsible for considering and deciding on major policy issues related to clearance and registration of agricultural and veterinary chemicals. The Council's membership includes a Chairperson; a representative of the National Health and Medical Research Council; a representative of the Australian and New Zealand Environment Council and Council of Nature Conservation Ministers; a representative of the National Occupational Health and Safety Commission; and a representative from each of the States and the Northern Territory.

The system established by the Act is generally considered a significant improvement on the previous arrangements. For example, in its July 1990 report, the Senate Select Committee on Agriculture and Veterinary Chemicals in Australia said "... [the Act] is a welcome development for the effective regulation of agricultural and veterinary chemicals in Australia. ... In particular, the Committee welcomes the establishment of the [Council]. The previous arrangements for clearance were marked by an array of councils, committees and sub-committees and a diversity of responsibilities and functions." While the system established by the Act is generally accepted, a number of deficiencies have been identified including:

- overlap between the Commonwealth and the States on certain aspects of the clearance and registration process (e.g. under the current system chemical products are cleared by the Council and then have to be registered by separate State and Territory bodies. There are eight such bodies);
- lack of identifiable avenues for complaints;
- the membership of the Council does not include a representative of consumer interests; and
- lack of a systematic national program for reviewing chemicals registered on the basis of data requirements less comprehensive than those of today.

The issue of a single national system of clearance and registration for agricultural and veterinary chemicals was considered by the Senate Select Committee. While not making a recommendation for the establishment of a national system of registration, it is clear from submissions made to the Committee that a national system of registration has the support of the agricultural and veterinary
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industry, certain consumer groups and the Department of Primary Industries and Energy. For example, in its submission to the Committee, Du Pont said 'The cost and effort involved in registering products and the time taken for the product to be finally registered can be significantly reduced by a more uniform approach to registration. Ideally, this could be achieved by the States giving up their powers in this area in favour of one central Federal system.' The views of the Australian Consumers' Association, the Australian Federation of Consumer Organisations and the Australian Conservation Foundation are set out at page 83 of the Committee's report.

In a 'Media Release' of 2 August 1991, the Minister for Primary Industries and Energy announced that the Australian Agricultural Council (i.e. the Commonwealth and State/Territory Ministers responsible for agriculture) had agreed on a national registration scheme for agricultural and veterinary chemicals. The Minister said that the proposal "... had first been raised at the Special Premiers' Conference in October 1990 and since then had been under investigation by the Commonwealth and State agencies with extensive consultation with the Australian Agricultural Council and the Australian Agricultural and Veterinary Chemicals Council. In practical terms, this means chemical assessment and approval need only take place once, at the national level." In relation to the funding of the proposed scheme, the Minister said that assessment and registration costs would be recovered from the agricultural and veterinary chemicals industry.

In a 'Media Release' of 24 July 1992, the Minister for Primary Industries and Energy announced the establishment of the NRA. In making the announcement, the Minister said that the "... new Authority [NRA] will register all agricultural and veterinary chemical products in Australia. This will help enhance Australia's reputation as a supplier of safe, wholesome agricultural products. The Authority will have an independent chairperson and board drawn from a range of interest groups, including State governments." This Bill and the Agricultural and Veterinary Chemicals Amendment Bill 1992 will give effect in part to the Minister's 24 July 1992 announcement.

This Bill does not change the current arrangements for the registration of agricultural and veterinary chemicals. The Government intends to introduce legislation providing for new registration arrangements in the 1993 Autumn sittings. The aims of this Bill, as stated by the Minister in the Second Reading Speech, include to establish the NRA as a statutory authority with a Board which will be more representative than the Council, and by so establishing the NRA provide it with a framework to handle registration activities in a more flexible, accountable and commercial manner.

Also refer to the Digest for the Agricultural and Veterinary Chemicals Amendment Bill 1992.

Main Provisions
The object of this Bill is to establish a National Registration Authority (NRA) to administer Commonwealth/State/Territory laws relating to agricultural and veterinary chemical products where those laws confer functions and powers on the NRA (clause 3).

The NRA will be established by clause 6 and as a corporation by clause 12.

The functions and powers of the NRA include:
* those conferred on it under this Bill, the Agricultural and Veterinary Chemicals Act 1988 (see p. 1 of the 'Background' to this Digest) and by State/Territory laws; and
* all things necessary to perform its functions, including entering into contracts and acquiring, holding and disposing of property (clause 7).

Clause 8 provides that the NRA may, for the purpose of considering any matter, or obtaining information or advice, consult with certain bodies, including:
* persons or bodies involved in the agricultural and veterinary chemicals industry;
* Commonwealth/State/Territory governments and their authorities; and
* consumer and environmental bodies.

Clause 10 allows the Minister to give directions to the NRA, with which the NRA is to comply, concerning the performance and exercise of its functions and powers. The Minister may only give such directions where:
* satisfied that the direction is necessary to ensure that the performance or exercise of the NRAs functions or powers does not conflict with major Government policy;
* notice has been given to the NRA of the intention to give such a direction; and
the Chairperson of the NRA has received adequate opportunity to discuss the need for the proposed direction with the Minister.

The NRA is to consist of a Chairperson and seven directors (clause 13). Two of the directors are to have experience in the regulation of chemical products under State or Territory law; two directors are to have experience in the agricultural and veterinary chemicals industry; one director is to have experience in the protection of consumer interests; one director is have experience in primary production; and one director is to have experience in occupational health and safety as an officer or employee of an organisation of employees (i.e. a union) (clause 14).

A position of Chief Executive Officer of the NRA will be established by clause 31. The Chief Executive officer will manage the NRA, in accordance with any policies determined, and any directions given, by the NRA (clause 32). The Chief Executive Officer is to be appointed by the NRA and a director of the NRA will be ineligible for appointment as Chief Executive Officer (clause 33).

Part 7 (clauses 58-69) of this Bill deals with the NRAs finances. The NRAs funds will consist of moneys appropriated by Parliament; fees received by the Commonwealth under the Agricultural and Veterinary Chemicals Act 1988, and amounts paid by a State/Territory to the Commonwealth for the purposes of the NRA (clauses 58 and 60). The NRAs funds may only be used for certain purposes, including administrative expenses (e.g. discharge of debts and liabilities incurred in the performance of its functions) (clause 62). The NRA may borrow money, but Ministerial approval will be required where the total amount to be borrowed exceeds $500 000 (clause 63). The Treasurer may enter into a contract guaranteeing NRA borrowings (clause 64). The NRA will not be subject to Commonwealth or State/Territory taxation, other than Commonwealth sales tax (clause 67).

References
2. Ibid., at p. 84.

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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.


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